

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION

Gene Autry James,)	C/A 8:05-0168-CMC-BHH
)	
Plaintiff,)	
v.)	
)	OPINION and ORDER
Spartanburg County Jail; Larry W. Powers,)	
Director of Medical Department; and Medical)	
Department,)	
)	
Defendants.)	
)	

Plaintiff is an individual proceeding *pro se* in this court. Plaintiff's suit alleges Defendants were deliberately indifferent to a variety of Plaintiff's medical needs while he has been incarcerated in the Spartanburg County Detention Center.¹ This action was originally filed January 27, 2005 and is largely duplicative of another action pending before this court, *James v. Powers, et al.*, C/A No. 8:04-22499-CMC-BHH (filed October 25, 2004).

In accordance with the court's order of reference, 28 U.S.C. § 636(b), and Local Rule 73.02 (B)(2)(e) (D.S.C.), this matter was referred to United States Magistrate Judge Bruce H. Hendricks for pre-trial proceedings and a Report and Recommendation. On July 20, 2005, the Magistrate Judge issued a Report recommending dismissal of the instant case and consolidation of the allegations of the complaint in this action with those pending in the earlier-filed case. The Report advised Plaintiff of the procedures and requirements for filing timely objections to the Report and Recommendation. On July 28, 2005, Plaintiff filed a short response to the Report and Recommendation of the

¹Plaintiff appears to be a pre-trial detainee currently housed in the Spartanburg County Jail. It also appears Plaintiff has been incarcerated in the Spartanburg facility on numerous occasions, thereby giving rise to his repeated encounters with the facility and its staff. *See* Affidavit of Larry Powers, filed May 2, 2005, in C/A 8:04-22499-CMC-BHH.

Magistrate Judge, but did not indicate his position on the dismissal of the 2005 civil action.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b).

The court has reviewed the complete record in this matter, including the pleadings, Report and Recommendation of the Magistrate Judge, and the applicable law. The court agrees with the Report and accordingly will **dismiss** this case. The clerk is directed to file a copy of the complaint from this case in civil action number 8:04-22499-CMC-BHH as a supplemental complaint, as well as a copy of this order. Defendants shall have fifteen (15) days from the filing date of this order to supplement, if necessary, the motion for summary judgment filed May 2, 2005 in civil action number 8:04-22499-CMC-BHH.

IT IS THEREFORE ORDERED that this matter is dismissed; all pending motions are hereby **moot**.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
August 17, 2005